

OGC Has Reviewed

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31 December 1974

MEMORANDUM FOR: Director of Medical Services

SUBJECT : Meeting with [REDACTED] on
Medical Records

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1. As requested during the meeting on 16 December on Contents of Medical Records, I have explored with Mr. [REDACTED] two areas of concern.

2. The first area of concern centered around the apparent conflict of views as to whether an actual medical record or just the data from the medical record is available upon subpoena by a court.

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[REDACTED] indicated that each individual situation could be different and would be subject to individual test in a specific case. The outcome as required by the court could go either way -- an individual physician could be required to testify on the content of the medical record or could be required to produce the record. In any event he advised against changing the content of OMS records in anticipation of some future subpoena.

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3. The second area of concern centered around the Freedom of Information Act and its application to medical records. [REDACTED] states there are three provisions for exemption from the act as follows:

- a. Degree of classification.
- b. Reveals sources and methods.
- c. Permits unwarranted invasion of personal privacy.

It is under the third item that he states medical records fall and which serves to protect medical records from an outside party seeking medical data from a file in

CL BY: 061378

31 December 1980

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OMS control. He readily admits the Freedom of Information Act is new and nobody really knows how it will work out.

4. A third area which I explored concerned OMS practice of including administrative data such as cables, board proceedings, etc. in OMS files. [REDACTED] again advised against changing any procedures and stated he would suggest OMS continue past practices of including pertinent data in OMS files which permits us to make proper judgments and conduct OMS business.

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[REDACTED]
Deputy Director of Medical Services

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OMS/CAB:ned
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